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IN THE HIGH COURT OF DELHI AT NEW DELHI

ITA 939/2015

PR.COMMISSIONER OF INCOME TAX-3 Appellant
Through: Mr. Rahul Chaudhary, Senior Standing
counsel with Mr. Ruchir Bhatia, Advocate.

versus

DCM SHRIRAM CONSOLIDATED LTD. Respondent

AND

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ITA 940/2015

PR. COMMISSIONER OF INCOME TAX-3 Appellant
Through: Mr. Rahul Chaudhary, Senior Standing
counsel with Mr. Ruchir Bhatia, Advocate.

versus

DCM SHRIRAM CONSOLIDATED LTD. Respondent

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE VIBHU BAKHRU

ORDER

% **14.12.2015**

CM No. 30046/2015 (for condonation of delay in filing the appeal) in
ITA No. 939/2015

CM No. 30047/2015 (for condonation of delay in filing the appeal) in
ITA No. 940/2015

1. For the reasons stated in the applications, the delay in filing the respective appeals is condoned.

2. The applications are disposed of.

ITA Nos. 939 of 2015 & 940 of 2015

3. These appeals by the Revenue under Section 260A of the Income Tax Act, 1961 ('Act') are against the impugned common judgment dated 20th May 2015 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA Nos. 1447 and 1836/Del/2012 for Assessment Year ('AY') 2008-09.

4. The first issue that arises for consideration is whether the Assessee could have claimed loss for the diminution in value of fertilizer bonds against the sale of fertilizers.

5. The assessment order itself shows that in its books, the Assessee categorised the bonds under the head 'current investment assets'. In that view of the matter, the diminishing value of the bonds not being held as long term investment was in the nature of a revenue loss and could have been claimed as such by the Assessee. The stand of the Revenue that this was only a notional loss and not allowable, is not tenable since bonds held as stock-in-trade can be valued at market rate or cost whichever is less.

6. The second issue concerns the claim of the Assessee that it incurred no expenditure, other than the administrative expenses, for earning dividend income. Under Section 14A(2) of the Act read with Rule 8D of the Income Tax Rules, 1962 ('Rules'), the Assessing Officer ('AO') is required to make an enquiry if he is not satisfied with the correctness of the claim of the Assessee in respect of such expenditure in relation to income which does not

form part of the total income. In the present case it has been averred by the Assessee, and not contradicted by the Revenue, that no interest expenditure has been incurred by it for earning the exempt income. There was no basis for the AO to have disallowed any part of such income on that score.

7. No substantial question of law arises for determination by the Court.

8. The appeals are accordingly dismissed.



S. MURALIDHAR, J



VIBHU BAKHRU, J

DECEMBER 14, 2015/dn